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110TH CONGRESS
1ST SESSION

H. R. 1747

To amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2007

Ms. SOLIS (for herself, Mr. MCNERNEY, Mr. GEORGE MILLER of California, Mr. BLUMENAUER, Mr. PALLONE, Mr. ALLEN, Mr. INSLEE, Mr. WEINER, Mrs. CAPPS, Mr. HINCHEY, Mr. STUPAK, Mr. WYNN, Ms. DEGETTE, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Energy and Commerce

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A BILL

To amend the Safe Drinking Water Act to require a national primary drinking water regulation for perchlorate.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Drinking Water for Healthy Communities Act of 2007''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Perchlorate is a chemical used as the primary ingredient in solid propellant for rockets, missiles, and fireworks.

(2) Large-scale production of perchlorate-containing chemicals in the United States began in the mid-1940s and large volumes have been disposed of in various States since the 1950s.

(3) Perchlorate is an oxidizing anion that originates as a contaminant in ground and surface waters and is highly soluble and exceedingly mobile in aqueous systems, persisting for many decades under typical ground and surface water conditions.

(4) The most prevalent sources of perchlorate contamination in environmental media can be traced to the manufacture and improper disposal of wastes from blasting agents and military munitions and to a lesser extent fireworks.

(5) Ninety percent of perchlorate in the United States is produced for use by the Department of Defense and the National Aeronautics and Space Administration.

(6) According to the Government Accountability Office, in May 2005, perchlorate contamination has been detected in water and soil at almost 400 sites in the United States. The Government Account-

ability Office concluded that because there is no standardized approach for reporting perchlorate data nationwide, a greater number of sites may exist.

(7) According to the Government Accountability Office, in May 2005, limited Environmental Protection Agency data show that perchlorate has been found in 35 States and the District of Columbia and is known to have contaminated 153 public water systems in 26 States. The Government Accountability Office reported that concentrations of perchlorate in drinking water ranged from 4 parts per billion to more than 420 parts per billion.

(8) Environmental Protection Agency data likely underestimates the total drinking water exposure, as illustrated by the findings of the California Department of Health Services that perchlorate has contaminated approximately 276 drinking water sources and 77 drinking water systems in the State of California.

(9) Food and Drug Administration scientists and other scientific researchers have detected perchlorate in the United States food supply, including but not limited to lettuce, milk, cucumbers, tomatoes, carrots, cantaloupe, wheat, and spinach, and in human breast milk.

(10) The Centers for Disease Control and Prevention has concluded that perchlorate exposure appears to be widespread in the United States populations.

(11) The National Academy of Sciences released a report on January 10, 2005, which recommended a perchlorate reference dose of 0.0007 milligrams per kilogram per day.

(12) The Environmental Protection Agency has not established a health advisory or national primary drinking water regulation for perchlorate, but in 2005, established a ''drinking water equivalent level'' of 24.5 parts per billion for perchlorate. A drinking water level assumes the only exposure pathway is through drinking water and does not account for other non-drinking water exposure pathways, such as food and breast milk.

(13) On January 22, 2003, the Environmental Protection Agency issued interim assessment guidance for perchlorate applicable to all Office of Solid Waste and Emergency Response programs, recommending the use of the provisional cleanup levels for perchlorate in groundwater ranging from 4 to 18 parts per billion with the added suggestion to carefully consider the lower end of the provisional range.

(14) On January 26, 2006, the Environmental Protection Agency issued Office of Solid Waste and Emergency Response guidance increasing the Environmental Protection Agency's provisional cleanup levels for perchlorate in groundwater to 24.5 parts per billion.

(15) In March 2006, the Children's Health Protection Advisory Committee advised the Environmental Protection Agency that the Agency's preliminary remediation goal (PRG) for perchlorate is not protective of children's health, as it can result in a nursing infant exposure that is 5 to 10 times higher than the recommended dose (Rfd) of 24.5 parts per billion.

(16) Perchlorate inhibits the uptake of iodine by the thyroid gland (which is necessary to produce important hormones which help regulate normal human health and development), presenting a risk to human health in vulnerable populations, including pregnant women and children.

(17) In October 2006, the Centers for Disease Control and Prevention found significant changes in the level of thyroid hormones in humans exposed to perchlorate. For women with low iodine levels, perchlorate exposure was associated with changes in the

production levels of hormones by the thyroid. About 36 percent of women in the United States have lower iodine levels.

(18) Given the seriousness of the potential adverse effects associated with perchlorate and the fact that children were at risk, combined with the absence of a Federal drinking water standard (MCL) for perchlorate, California proposed a drinking water standard of 6 parts per billion, and Massachusetts promulgated a drinking water standard of 2 parts per billion.

(19) Other States, including Nevada, Texas, New York, and Maryland, have issued some form of drinking water guidance for perchlorate, including a drinking water action level, health-based guidance, and a health based advisory level at ranges from 1 part per billion to 18 parts per billion.

(20) Perchlorate has been detected in the soil, surface waters, and groundwater at 55 Department of Defense facilities across the country, with off-site migration occurring at some facilities.

(21) As of 2003, the Department of Defense policy on perchlorate requires sampling only where a perchlorate release due to Department activities is

suspected and a complete human exposure pathway is likely to exist.

(22) According to the Environmental Protection Agency, the Department of Defense is deferring all remedial action relating to perchlorate contamination at or from its facilities until a Federal perchlorate drinking water standard is adopted.

(23) The Environmental Protection Agency has historically failed to exercise its enforcement authority under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to compel the Department of Defense to undertake remedial actions to address perchlorate contamination at Department facilities that are listed on the Superfund National Priorities List.

(24) There are as many as 22 contaminants without Federal drinking water standards for which the Environmental Protection Agency has set site specific cleanup levels for the remediation of groundwater, making the lack of response actions for perchlorate contamination at Department of Defense Superfund facilities a unique situation.

(25) The Environmental Protection Agency has failed to take enforcement action against the Department of Defense to cause the Department to

mitigate or remediate the perchlorate contamination emanating from its Aberdeen Proving Ground facility that has adversely impacted the drinking water supply for the City of Aberdeen, Maryland.

(26) Since 2002, the Department of Defense actively sought to exempt the Department from State and Federal public health and environmental laws which protect drinking water supplies from chemical constituents of military munitions including perchlorate.

SEC. 3. NATIONAL PRIMARY DRINKING WATER REGULATION FOR PERCHLORATE.

Section 1412(b)(12) of the Safe Drinking Water Act (42 U.S.C. 300g–1(b)(12)) is amended by adding at the end the following:

''(C) PERCHLORATE.—

''(i) SCHEDULE AND STANDARD.—Notwithstanding the deadlines set forth in paragraph (1), the Administrator shall promulgate a national primary drinking water regulation for perchlorate pursuant to this subsection, in accordance with the schedule established by this subparagraph.

''(ii) PROPOSED REGULATIONS.—Not later than 12 months after the date of the

enactment of this subparagraph, the Administrator shall publish in the Federal Register a proposed national primary drinking water regulation for perchlorate.

''(iii) FINAL REGULATIONS.—Not later than 18 months after the date of publication of the proposed national primary drinking water regulation required by clause (ii), after notice and opportunity for public comment, the Administrator shall promulgate a national primary drinking water regulation for perchlorate.''.

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